IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5064 OF 2007

Suhas Shripat Khamkar ....Petitioner.
V/s
The Hon'ble Court Minister, Foods, Civil
Supplies & Consumer Protection Deptt. & Ors... ....Respondents.

Mr.V.Z.Kankaria i/by Mr.Suresh More, Adv. For the petitioner.

Mr.D.A.Patil, AGP for respondent Nos. 1, 3 and 4.

CORAM: A.P.DESHPANDE, J.
17/7/07

PC:

The District Supply Officer issued a proclamation with a view to allot a fair price shop at village Vilavde. Four persons applied pursuant to the said notification issued. After scrutiny of the applications the District Supply Officer found that none of the applicants complied with the conditions for grant of ration shop and hence rejected the applications. Aggrieved thereby the present respondent No.2 preferred an appeal before the Deputy Commissioner. The Deputy Commissioner as well held that none of the applicants satisfy the conditions for grant of shop and hence directed the Deputy Supply Officer to issue fresh notification with a view to allot the shop. Aggrieved by the order passed by authorities below respondent No.2 carried the revision before the State Government. The State Government has alloted the fair price shop

in favour of respondent No.2. Aggrieved thereby this writ petition has been filed. Perusal of the impugned order it reveals that the present petitioner and the respondent No.2 fall in the same preference category being preference category No.2 as both of them are education unemployed. The applications are scrutinized having regard to the eligibility criteria of the respective candidates. It is observed in the impugned order that the place where the respondent No.2 proposes to set up ration shop is owned by her husband and he has permitted the use of the said shop for running a fair price shop by respondent No.2. The economic liability of the respondent No.2 stands substantiated from certificate issued by the Bank of India. The only infirmity in the application of respondent No.2 as is revealed from para 9(A) of the order is that the land proposed to be used for the fair price shop has not been converted for non-agricultural use. As against the said case of the respondent No.2 the present petitioner has stated in the application that she proposes to use the premises of one Sudhakar Sripat Khamkar whereas no objection certificate annexed by the petitioner is issued by Sripat Krishnaji Khamkar. This is one short coming noticed in the application of the present petitioner. Another shot coming noticed in regard to the present petitioner is that an offence was registered against the petitioner punishable under sections 279, 337 and 427 read with section 184 of the Motor Vehicles Act. It has been noticed that offence

was registered against the present petitioner and the case was pending on the date on which the petitioner made an application for grant of fair price shop. No doubt the petitioner thereafter came to be acquitted. What is to be seen is that besides individual rights of the persons claiming to have fair price shop, a larger goal is to be achieved and the same is making available of fair price shop to villagers at large. Taking over all view of the matter the State Government has found that the respondent No.2 was complying with most of the requirements and the case of the respondent No.2 was having comparative better merit vis-a-vis case of the petitioner and thus granted permission in favour of respondent No.2. The order passed by the concerned Minister takes possible view of the matter which does not call for interference in exercise of writ jurisdiction. No patent illegality or impropriety is seen to have been committed while passing of the impugned order. Thus there being no merit in the writ petition, same is summarily dismissed.

17.7.07